

Joro Walker, USB# 6676  
150 South 600 East, Ste. 2A  
Salt Lake City, Utah 84102  
Tel. 801-487-9911  
jwalker@westernresources.org

Samantha Ruscavage-Barz  
NM Bar. No. 23276 (admitted pro hac vice)  
WildEarth Guardians  
516 Alto Street  
Santa Fe, NM 87501  
Tel. 505-988-9126 x1158  
sruscavagebarz@wildearthguardians.org

*Attorney for Utah Physicians for a Healthy  
Environment and Utah Moms for Clean Air*

*Attorney for WildEarth Guardians and  
Sierra Club*

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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<p>UTAH PHYSICIANS FOR A HEALTHY ENVIRONMENT, WILDEARTH GUARDIANS, UTAH MOMS FOR CLEAN AIR, and SIERRA CLUB,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>KENNECOTT UTAH COPPER LLC,</p> <p>Defendant.</p>	<p><b>SCHEDULING ORDER</b></p> <p>Case No. 2:11-CV-01181-DN</p> <p>Honorable Judge David Nuffer</p>

Pursuant to Federal Rule of Civil Procedure 16(b), the Court received the Attorneys' Planning Report filed by counsel. An Initial Pretrial Hearing was held before Magistrate Judge Evelyn J. Furse on July 11, 2012, whereupon the following matters were scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause

**\*\*ALL TIMES 4:30 PM UNLESS INDICATED\*\***

1. PRELIMINARY MATTERS	DATE
Nature of claims and any affirmative defenses: The nature of the claims and defenses are outlined in the parties' joint Attorneys' Planning Meeting report.	
This case is divided into two phases. Phase 1 will be focused exclusively on liability. Phase 2, if necessary, will be focused on remedies, including injunctive relief and/or penalties. The deadlines set out in this Scheduling Order apply only to Phase 1 of this litigation. The Court has deferred setting any Phase 2 deadlines until such time as the Phase 1 issues are finally resolved.	
a. The Parties held a Rule 26(f)(1) Conference on:	<u>May 7, 2012</u>
b. The Parties submitted an Attorneys' Planning Meeting Form on:	<u>May 23, 2012</u>
c. The Parties exchanged their rule 26(a)(1) Phase 1 initial disclosures by:	<u>June 13, 2012</u>
2. DISCOVERY LIMITATIONS	NUMBER
a. Maximum Number of Depositions by Plaintiff(s)	<u>10</u>
b. Maximum Number of Depositions by Defendant(s)	<u>10</u>
c. Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7 hours</u>
d. Maximum Interrogatories by any Party to any Party	<u>25</u>
e. Maximum requests for admissions by any Party to any Party	<u>25</u>
f. Maximum requests for production by any Party to any Party	<u>25</u>

- g. Discovery of electronically stored information should be handled as follows:

The Parties will provide electronic documents in electronic format, to limit any costs or delays associated with creating paper documents from the electronically stored documents. The Parties will produce electronic documents in native format, or as .pdf files. See F.R.Civ.P 34(b)(1)(C)(A) (requesting party “may specify the form or forms in which electronically stored information is to be produced.”). However, emails may be provided as .tif or as .pdf files. The Parties will provide electronic documents in a format that will allow for electronic searching, unless the producing party would incur additional cost in doing so. All documents will be organized in a reasonable manner.

- h. Claim of privilege or protection as trial preparation material asserted after production shall be handled in accordance with the rules and as follows:

Consultations and communications between expert witnesses and counsel, whether as a consultant or as testifying experts shall be protected from discovery.

<b>3.</b>	<b>AMENDMENT OF PLEADINGS/ADDING PARTIES</b>	<b>DATE</b>
a.	Last Day to File Motion to Amend Pleadings (no Party expects to further amend the pleadings in this case)	<u>Passed</u>
b.	Last Day to File Motion to Add Parties (no Party expects to add additional parties to this case)	<u>Passed</u>
<b>4.</b>	<b>RULE 26(a)(2) REPORTS FROM EXPERTS</b>	<b>DATE</b>
a.	Plaintiff	<u>September 14, 2012</u>
b.	Defendant	<u>September 14, 2012</u>
c.	Counter reports	<u>October 5, 2012</u>

**5. OTHER DEADLINES****DATE**

- a. Discovery to be completed by:

Fact discovery

August 15,  
2012

Expert discovery

October 19,  
2012

- b. Final date for supplementation of disclosures
- 
- and discovery under Rule 26(e)

October 19,  
2012

- c. Deadline for filing dispositive or potentially dispositive
- 
- motions

November  
19, 2012**6. SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION****DATE**

- a. Referral to Court-Annexed Mediation

No

- b. Referral to Court-Annexed Arbitration

No

- c. Evaluate case for Settlement/ADR on

September  
14, 2012

- d. Settlement probability:

Unknown at this time; the Parties are exploring the option of private, early  
mediation.

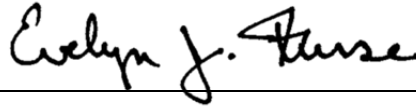
**Within 15 days of receiving a ruling on Summary Judgment, counsel for Plaintiff will  
file a Motion to Amend Scheduling Order along with a Proposed Scheduling Order with  
remaining deadlines, stipulated if possible.**

**7. OTHER MATTERS**

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 16 day of July, 20 12.

BY THE COURT:

A handwritten signature in black ink, reading "Evelyn J. Furse", written over a horizontal line.

Evelyn J. Furse  
U.S. Magistrate Judge